

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
09 DHC 29

THE NORTH CAROLINA STATE BAR,

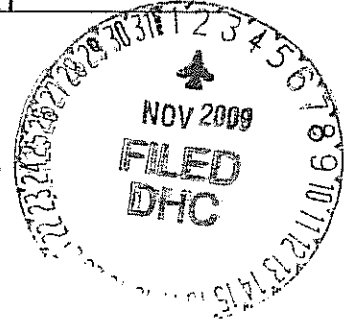
Plaintiff

v.

BRET A. TOMITS, Attorney,

Defendant

COMPLAINT



Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Bret A. Tomits ("Tomits" or "Defendant"), was admitted to the North Carolina State Bar on August 24, 2001. At all times referred to herein, Tomits was subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief:

3. During part of the relevant periods referred to herein, Tomits was engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

4. During part of the relevant periods referred to herein, Tomits was administratively suspended from the active practice of law in the State of North Carolina pursuant to the Order of Suspension dated March 10, 2009 for failing to submit payment for membership dues for the year 2008, failing to certify his compliance with the mandatory Interest on Lawyers' Trust Accounts ("IOLTA") program, and failing to comply with Continuing Legal Education requirements for the year 2007.

5. Beginning in or around 2002, Tomits suffered from various psychological conditions.

6. While undergoing treatment for the aforementioned conditions, Tomits became dependent upon one or more of the medications prescribed for his psychological condition(s).

7. While attempting to overcome his dependency upon prescription medication, Tomits became dependent upon alcohol.

8. In early 2008, Tomits entered a rehabilitation hospital in Ohio, where he received treatment for prescription drug dependency, anxiety, and alcoholism.

9. In 2008, Tomits wound down his law practice because he believed his psychological condition(s), combined with the high-stress nature of the legal profession, impaired his ability to continue practicing law.

10. In early 2009, Tomits again sought treatment for anxiety and depression. He has maintained his treatment for anxiety and depression since that time.

THEREFORE, the State Bar alleges that Tomits suffers from physical and/or mental conditions that significantly impair his professional judgment, performance, or competency to act as an attorney, that Tomits is disabled within the meaning of 27 N.C.A.C. 1B § .0103(19), and that Tomits should be transferred to disability inactive status pursuant to 27 N.C.A.C. 1B § .0118.

WHEREFORE, Plaintiff prays for an order:

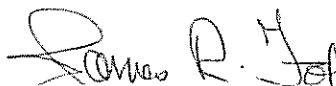
(1) Requiring Defendant to submit to an examination and evaluation by medical personnel designated by the Hearing Committee pursuant to 27 N.C.A.C. 1B §.0118(b)(3) and North Carolina Rule of Civil Procedure 35(a);

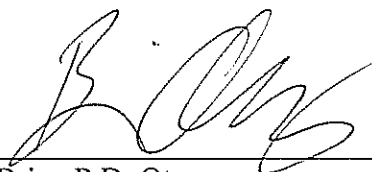
(2) Transferring Defendant to disability inactive status in accordance with N.C.G.S. §84-28(g) and 27 N.C.A.C. 1B §.0118(b)(6);

(3) Defendant be taxed with the costs permitted by law in connection with this proceeding; and

(4) For such other and further relief as is appropriate.

This the 23<sup>rd</sup> day of October, 2009.

  
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James R. Fox, Chair  
Grievance Committee

A handwritten signature in black ink, appearing to read 'B. Oten', is positioned above a horizontal line.

Brian P.D. Oten  
Deputy Counsel  
State Bar No. 34140  
The North Carolina State Bar  
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919-828-4620